

CAROLINE E. BROWN

IBLA 81-818

Decided July 30, 1981,

Appeal from decision of Nevada State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. N-MC 4338 and N-MC 4339.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment--Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally--Regulations: Generally--Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

3. Mining Claims: Assessment Work

The filing of evidence of annual assessment work in the county recording office does not constitute compliance with the recordation requirements of 43 CFR 3833.2-1.

APPEARANCES: Caroline E. Brown, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Caroline E. Brown has appealed from the decision of the Nevada State Office, Bureau of Land Management (BLM), dated June 16, 1981, which declared the unpatented Joshua #1 and Joshua #2 lode mining claims, N-MC 4338 and N-MC 4339, abandoned and void because no intent to hold the claims or proof of annual labor was filed with BLM by December 30, 1978, 1979, and 1980, as required by 43 CFR 3833.2, implementing the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976).

Appellant states that the annual assessment work for the two claims had been done each year and duly recorded in the records of Clark County, Nevada. The claims were located in 1977.

[1] Section 314(a), FLPMA, 43 U.S.C. § 1744(a) (1976), requires the owner of an unpatented mining claim to file evidence of assessment work, or a notice of intent to hold the claim, with BLM on or before December 30 of each calendar year following the calendar year in which the claim was located. Failure to so file within the prescribed time limit is statutorily considered conclusively to constitute abandonment of the claim under section 314(c) of FLPMA, 43 U.S.C. § 1744(c) (1976), and 43 CFR 3833.4. See Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

When appellant failed to file timely either an affidavit of assessment work or a notice of intent to hold the unpatented mining claims, BLM properly held the claims abandoned and void. Robert R. Eisenman, 50 IBLA 145 (1980).

[2] The fact that appellant may have been unaware of the recordation requirements of FLPMA, while unfortunate, does not excuse her from compliance. Those who deal with the Government are presumed to have knowledge of the law and regulations duly adopted pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, *supra*; A. J. Grady, 48 IBLA 218 (1980); Glen J. McCrorey, 46 IBLA 355 (1980).

[3] Accomplishment of a proper annual recording in the appropriate county does not relieve claimant from recording with BLM under the filing requirements of FLPMA or the implementing regulations. What 43 CFR 3833.4(b) says is that a defective or untimely recording under state law does not, of itself, constitute a failure to file under FLPMA. Neither does a valid or timely filing with a county constitute a FLPMA filing. There are two separate filing requirements, and compliance with the one does not constitute compliance with the other.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

Edward W. Stuebing
Administrative Judge

